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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,127	12/29/2003	Joseph T. Wissmann	600177-072	1749
74685 7590 10/14/2008 IBM CORP. (DRE)(LOT, CAM) C/O DRIER LLP 499 PARK AVENUE NEW YORK, NY 10022				
EXAMINER AHLUWALIA, NAVNEET K				
ART UNIT		PAPER NUMBER		
2166				
MAIL DATE		DELIVERY MODE		
10/14/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/748,127

**Applicant(s)**

WISSMANN ET AL.

**Examiner**

NAVNEET K. AHLUWALIA

**Art Unit**

2166

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 16, 17, 19-25, 32 and 35-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 16, 17, 19-25, 32 and 35-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This communication is in response to the Amendment filed 04/04/2008.

***Response to Arguments***

2. Claims 1 – 10, 16, 17, 19 – 25, 32 and 35 – 39 are pending in this Office Action. After a further search and a thorough examination of the present application, claims 1 – 10, 16, 17, 19 – 25, 32 and 35 – 39 remain rejected.
3. Applicant's arguments filed with respect to claims 1 – 10, 16, 17, 19 – 25, 32 and 35 – 39 have been fully considered but they are not persuasive.

*Applicant argues that there is no teaching in Tal of disclosing determining changes made to a schema of a first copy of the database, no sending of framework having the migration script incorporated and no updating one or more copies of a database.*

*In response to Applicant's argument, the Examiner submits that Tal teaches the changes being made to the first copy of the database in column 5 lines 46 – 55. Furthermore in the same citation is describes the updating of the database. Also in column 8 lines 1 – 15 Tal discloses a log directory and a log events flag from which all changes made can be determined. The database synchronization is only claimed in the preamble and all the other steps are disclosed the method of instant application is disclosed in Tal. Furthermore, the sending of the framework to a location of one or more copies for executing the updates is disclosed in column 5 lines 46 – 55.*

*Claims 16 and 32 recite the same subject matter and for the same reasons as cited above the rejection is maintained.*

Hence, Applicant's arguments do not distinguish the claimed invention over the prior art of record. In light of the foregoing arguments, the 102 rejections are sustained.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 16 – 25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Given the broadest interpretation to claim 16 it is rendered to be a system claim with components that are software per se having no hardware components, therefor is understood as software per se. Therefore the claims fall under non-statutory subject matter.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 35 – 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claims 35 – 39 recite the limitation "the computer program of claim 32" in line 1. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1 – 10, 16 – 25 and 32 – 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Tal et al. ('Tal' herein after) (US 7,107,589 B1).

With respect to claim 1, 16 and 32,

Tal discloses a method for synchronization of copies of a database, comprising: determining changes made to a schema of a first copy of the database; generating a migration script according to the changes made to the schema (column 3 lines 27 – 35, Tal); incorporating the migration script into a framework (column 3 lines 41 – 51, Tal); sending the framework having the migration script incorporated therein to a location of one or more other copies of the database for executing to update the one or more other copies of the database (Figures 1 – 3, column 5 lines 46 – 55, Tal).

With respect to claim 2, 17,

Tal discloses the method of claim 1, wherein the migration script includes SQL instructions (column 6 lines 20 – 36, Tal).

With respect to claim 3,

Tal discloses the method of claim 1, wherein the migration script includes instructions in the form of a derivative of SQL (column 6 lines 20 – 36, Tal).

With respect to claim 4,

Tal discloses the method of claim 1, wherein the migration script includes executable code (column 6 lines 57 – 67 and column 7 lines 1 – 15, Tal).

With respect to claim 5, 19 and 35,

Tal discloses the method of claim 4, wherein the executable code comprises Java code (column 7 lines 5 – 39, Tal).

With respect to claim 6, 20 and 36,

Tal discloses the method of claim 1, wherein the step of reading the changes comprises comparing a stored snapshot of the schema of the first copy of the database to a current schema of the first copy of the database (column 9 lines 46 – 67 and column 10 lines 1 – 5, Tal).

With respect to claim 7, 21 and 36,

Tal discloses the method of claim 1, wherein at least one of the one or more other copies of the database comprises a master copy of the database (column 9 lines 11 – 26, Tal).

With respect to claim 8, 22 and 37,

Tal discloses the method of claim 1, wherein the step of sending comprises sending the framework by electronic mail (column 8 lines 57 – 62, Tal).

With respect to claim 9, 23, 24, 38 and 39,

Tal discloses the method of claim 1, wherein the step of sending comprises sending the framework through a source code control system (column 8 lines 40 – 62, Tal).

With respect to claim 10, 25,

Tal discloses the method of claim 1, wherein the step of sending comprises sending the framework by storing the framework on a floppy disk and sending the floppy disk by a physical mail service (if the data was stored on a disk it would be obvious that it could be sent by physical mail, column 8 lines 57 – 62, Tal).

***Conclusion***

10. THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Navneet K. Ahluwalia whose telephone number is 571-272-5636.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alam T. Hosain can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Navneet K. Ahluwalia/  
Examiner, Art Unit 2166

Dated: 10/08/2008

/Hosain T Alam/  
Supervisory Patent Examiner, Art Unit 2166

**Application Number****Application/Control No.**

10/748,127

**Applicant(s)/Patent under  
Reexamination**

WISSMANN ET AL.

**Examiner**

NAVNEET K. AHLUWALIA

**Art Unit**

2166